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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/602,197

06/24/2003

Aiko Hanyu

COS-766 DIV

2213

7590

08/16/2005

Fina Technology, Inc.
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EXAMINER

EASHOO, MARK

ART UNIT

PAPER NUMBER

1732

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,197

Applicant(s)

HANYU ET AL.

Examiner

Mark Eashoo, Ph.D.

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-26 is/are rejected.
- 7) ☒ Claim(s) 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/03</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 24-JUN-2003 complies with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. Accordingly, it has been placed in the application file and the information referred to therein has been considered as to the merits.

Claim Objections

Claim 24 is objected to because it depends from a canceled claim (ie. claim 1). Appropriate correction is required.

For the purpose of further examination, claim 24 has been interpreted as depending from claim 21.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 21-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, claim 21 recites the limitations: "the propylene polymer" in line 4; "the polymer" in line 4. There is insufficient antecedent basis for this limitation in the claim. It is also noted that the limitation "the polymer" renders the claim indefinite because it cannot be clearly ascertained if this limitation refers to "the propylene polymer" or "a first crystalline thermoplastic polymer".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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Claims 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bothe et al. (US Pat. 5,254,394) in view of either Peet (US Pat. 6,387,529) or Kong et al. (US Pat. 6,503,635).

Bothe et al. teaches the basic claimed process of making a multilayer film having a substrate layer and an surface layer, comprising: extruding a base/substrate isotactic polypropylene layer (4:35-5:40); extruding a syndiotactic polypropylene surface layer (example 1); bonding/coextruding the layers (4:35-5:40); biaxially orienting/stretching the film (4:35-5:40); and a surface layer thickness less than the base/substrate thickness (4:35-45).

Bothe et al. does not teach a surface layer comprising syndiotactic polypropylene having a melt flow index/rate of less than 2 grams/10 minutes. However, either Peet (2:40-45 and 4:1-20) or Kong et al. (3:55-4:30) teaches surface layer comprising syndiotactic polypropylene having a melt flow index/rate of less than 2 grams/10 minutes. Bothé et al. and either Peet or Kong et al. are combinable because they are from the same field of endeavor, namely, multi-layer films. At the time of invention a person of ordinary skill in the art would have found it obvious to have used a surface layer comprising syndiotactic polypropylene having a melt flow index/rate of less than 2 grams/10 minutes, as taught by either Peet or Kong et al., in the process of Bothe et al., and would have been motivated to do so because Peet and Kong et al. suggest that syndiotactic polypropylene having a melt flow index/rate of less than 2 grams/10 minutes is suitable for surface layers of multilayer films.

The examiner recognizes that all of the claimed effects and physical properties are not positively stated by the reference(s). However, the reference(s) teaches all of the claimed ingredients, process steps, and process conditions. Therefore, the claimed effects and physical properties would inherently be achieved by carrying out the disclosed process. If it is applicants' position that this would not be the case: (1) evidence would need to be presented to support applicants' position; and (2) it would be the examiner's position that the application contains inadequate disclosure that there is no teaching as to how to obtain the claimed properties and effects by carrying out only these process steps.

Bothe et al. does not teach extrusion coating an oriented substrate. Nonetheless, Official Notice is given that co-extrusion, extrusion coating, and laminating are well known molding techniques to form multi-layer films. A person of ordinary skill in the art would have found it obvious to have used extrusion coating and/or laminating, as commonly practice in the art, in the process of Bothe et al., and would have been motivated to doe so because such techniques are know equivalent and alternative process steps.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached form PTO-892.

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Correspondence


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Eashoo, Ph.D. whose telephone number is (571) 272-1197. The examiner can normally be reached on 7am-3pm EST, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaanni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

13-Aug-05
me

Mark Eashoo, Ph.D.
Primary Examiner
Art Unit 1732



13/Aug/05